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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,312	12/04/2001	Toshiaki Hongoh	08372.0005	8900

7590 07/11/2003  
Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
1300 I Street, N.W.  
Washington, DC 20005-3315

EXAMINER

HASSANZADEH, PARVIZ

ART UNIT	PAPER NUMBER
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1763

DATE MAILED: 07/11/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/000,312

Applicant(s)

HONGOH ET AL.

Examiner

Parviz Hassanzadeh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (Figs. 4,5 and pages 1-2).**

Admitted prior art (Figs. 4, 5) teaches a plasma processing apparatus comprising:  
a process chamber 4 including an internal space S which can be evacuated and a ceiling having an opening;  
a (*ring shaped*) supporting frame member 10 placed along the periphery of said ceiling and including a ring-shaped supporting shelf 12 protruding toward the center of said process chamber;

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an insulating plate 8 having its peripheral portion supported by the supporting shelf 12 of said supporting member 10 and airtightly covering the opening of said ceiling of said process chamber;

a mountable base 6 placed in said process chamber for mounting thereon a workpiece W to be processed;

a planar antenna member 16 placed above said insulating plate and including a microwave radiation hole 24 for transmitting therethrough microwave used for generating plasma, said microwave being transmitted through said insulating plate 8 into said process chamber 4; and

gas inlets (*gas supply means*) arranged around the chamber for supplying a predetermined gas into said process chamber, wherein

said supporting shelf 12 has an inner periphery including an upper right-angles corner portion P1 and a lower obtuse-angles corner portion P2.

Admitted prior art fails to teach the corner portion shaped into a curve.

It was held in *re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) that the shape was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular shape was significant. (Also see MPEP 2144.04(d)). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to select the desire size and shape of the shelf portion in order to reduce abnormal discharge by the corner.

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*Further regarding claims 2-5:* the supporting shelf 12 of the admitted prior art has an inner periphery including *an upper right-angles corner portion P1 and a lower obtuse-angles corner portion P2.*

*Further regarding claims 6, 7:* the supporting shelf 12 of the admitted prior art includes a supporting (*upper*) plane facing the insulating plate 8 and has a sealing groove as shown in Fig. 5 in which an O-ring (sealing member) 14 is held.

*Further regarding claims 8 and 9 (change in size):* the admitted prior further fails to teach the length of the supporting shelf to be at a node or equal to one half of wavelength of the microwave propagated in the insulating plate in the radial direction. It was held in *re Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984) that where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Hongoh (US Patent No. 6,325,018 B1), Ishii et al (US Patent No. 5,874,706), and Ishii et al (JP-2000-299198-A)* each teaches a microwave plasma chamber including an insulating plate supporting on a shelf portion of the chamber for airtightly sealing the ceiling of the chamber.

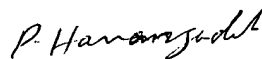
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Parviz Hassanzadeh whose telephone number is (703)308-2050.

The examiner can normally be reached on Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Mills can be reached on (703)308-1633. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

  
Parviz Hassanzadeh  
Primary Examiner  
Art Unit 1763

July 7, 2003